

Mr. SPEAKER.—The question is :

“That this House concurs in the appointment of a Joint Select Committee to consider the Bombay Provincial Municipal Corporation (Extension and Amendment) Bill, 1968 consisting of a total number of 20 members (5 members from the Legislative Council and 15 members from Legislative Assembly, and that the following members will be the members from the Legislative Assembly cited below :—

Sriyuths :

- | | |
|---------------------------|--------------------------|
| 1. B. M. Idinabba | 9. Smt. K. Leelavati Rai |
| 2. R. N. Lakshmipathi | 10. T. R. Shamanna |
| 3. C. M. Desai | 11. B. B. Sayanak |
| 4. Kalyana Rao | 12. L. Srikantiah |
| 5. S. R. Shanmugam | 13. J. P. Sarwesh |
| 6. A. Nanjappa | 14. C. M. S. Sastry |
| 7. E. Pundalikappa | 15. M. K. Surpur |
| 8. Wali Rachappa Gangappa | |

The motion was adopted.

Mr. SPEAKER.—Under sub-rule (2) of Rule 240, I nominate the Minister of State for Municipal Administration in charge of the Bill and the Minister for Law as members of the Committee.

Mysore Sales Tax (Amendment) Bill, 1969

Motion to consider.

Sri H. V. KOUJALGI (Minister for Revenue).—Sir, the Hon. Finance Minister is busy in the Council and so on his behalf I may be permitted to move the Mysore Sales Tax (Amendment) Bill, 1969.

Mr. SPEAKER.—The Hon. Minister for Revenue may move it.

Sri H. V. KOUJALGI.—Sir, I beg to move :—

“That the Mysore Sales Tax (Amendment) Bill, 1969 be taken into consideration.”

† Sri M. NAGAPPA (Raichur).—Sir, I rise on a point of order. Sir, the Mysore Sales Tax Act, 1957, is going to be amended by this amending Bill. The provisions of this Amending Bill are restricting the trade and business of the people. As per clause 2 of the Bill, Section 28A of the original Act is proposed to be amended by adding sub-section (4) to (7). Sub-sections (4) and (5) relate to levy of fine by the Officer-in-charge of a check-post or barrier for any contravention of or non-compliance with the provisions of sub-section (2) or (3). The old provisions in this respect have been declared as null and void as per the

judgment of the High Court of Mysore and so the Government has proposed these amendments. Here there are two different persons carrying on business; (1) motor vehicle owners who are doing transport business and (2) the other persons whose property is being transported in that vehicle. Under these two clauses, there will be restriction on the persons who are carrying on transport business. While doing their business they have to carry certain properties of third persons in their motor vehicles. While doing so, they have to stop their vehicles at the check-posts and or submit certain declarations by the owners of the goods being carried by them. If the declarations are false, then those persons are to be punished under sections 4 and 5, but at the checkpost these transport operators carrying these goods of those persons have to wait till the matter is decided and thus they will be unnecessarily harassed. Therefore, I submit that this comes under article 304(b) of the Constitution.

You, Sir, have been asking us several times to point out what is the restriction. I have been able to find a ruling of the High Court wherein it is held that imposition of a tax amounts to restriction on trade. This is reported in A.I.R. (1954) Rajasthan page 260 :

“Imposition of octroi duty would amount to restriction on the freedom of trade granted under article 301. Freedom implies that there should be no restriction on trade and commerce. Levying of octroi or any other duty on goods entering the municipal limits amounts to restriction on freedom of trade.”

If we read the provisions of sub-sections (4) and (5) in clause 2 of the amending Bill, they definitely impose restrictions on trade that is carried on by the transport operators carrying such goods and so it comes under article 304(b) and unless the President gives his recommendation for the introduction of such a Bill in this House, it cannot be introduced.

Sri RAMAKRISHNA HEDGE (Minister for Finance).—Sir, if the hon. Members read the statement appended to the draft Bill, it would be clear to them that what the Government propose to amend is not something which would result in further restrictions on trade. Even supposing it is, the necessary recommendation of the President has already been obtained for the same.

Mr. SPEAKER.—The recommendation of the President is before me. It is as follows :—

“With reference to your letter No. LAW 42 LGN 67 dated the 10th May 1969, on the above subject, I am directed to convey the sanction of the President under Article 304(b) of the Constitution for introduction in the State Legislature the Mysore Sales Tax (Amendment) Bill, 1969, subject to the following observations :

“Clause 2(4) of the amending Bill does not provide the level up to which the power of imposing penalties can be exercised.

(MR. SPEAKER)

As that clause stands, it would appear that the Deputy Commissioner of Commercial Taxes and perhaps even the Commissioner may impose a penalty. If this be the intention, it would be necessary to provide for appeals against orders passed by the authorities superior to the Assistant Commissioner of Commercial Taxes. It is, therefore, suggested that it may not be necessary to vest the power of imposing penalty in any authority superior to the Assistant Commissioner of Commercial Taxes. In this event clause 2(4) of the amending Bill may be further amended by the addition of the words 'and not higher in rank than an Assistant Commissioner of Commercial Taxes' after the words 'not below the rank of an Assistant Commercial Tax Officer.'

I am to request that the State Government may take into consideration the above suggestions before introducing the Bill in the State Legislature. Five copies of the Bill as passed by the State Legislature may be forwarded to this Ministry."

So, the recommendation of the President is already there. On the merit of the objection itself, I wish to say a few words. List II provides for imposition of sales tax by the Legislature and the State. Therefore, the very fact that taxes are imposed cannot be construed as a restriction under Article 304. The only condition is that they should be uniform and there should not be any partiality or differentiation between person and person.

Sri M. NAGAPPA.—The original Act itself has received the assent of the President.

Mr. SPEAKER.—That is an extra precaution taken by Government. Simply because taxes are being imposed, the matter does not become restrictive. As regards motor vehicles, they are regulatory; I do not think there is any restriction. To be on the safe side, the State Government has taken the precaution to get the necessary sanction. I have gone through the Supreme Court judgment. I do not pronounce my Ruling on that. If the hon. Member wants to know the case on which I base my observations, he is at liberty to seek the information.

Motion moved

"That the Mysore Sales Tax (Amendment) Bill, 1969, be taken into consideration."

Sri P. V. AITHALA (Surathkal).—Sir, I beg to move :

"That the Mysore Sales tax (Amendment) Bill, 1969, be circulated for the purpose of eliciting public opinion thereon by 31st October 1969."

Mr. SPEAKER.—Amendment moved :

“That the Mysore Salee Tax (Amendment) Bill, 1969, be circulated for the purpose of eliciting public opinion thereon by 31st October 1969.”

Sri RAMAKRISHNA HEGDE.—Sir, I would like to say just a few words about this Bill. In this Bill we seek to amend only two sections, Section 28A and 28C of this Act. This step is necessary both in view of the Supreme Court decision and also certain suggestions made by the Government of India. From the point of view of augmenting our resources and plugging the loopholes that exist in the operation of the existing Act, it was necessary to bring about this Bill. Just now, one of the hon. Members has moved that this Bill may be circulated for eliciting public opinion. This is not such an important measure that it would be necessary to elicit public opinion. The view is that the Government must administer the rules and regulations that have been approved by the Legislature strictly and for such strict enforcement of the existing Act it is necessary to amend the Act in respect of these sections. Therefore, I appeal to the hon. Members that these two amendments may be passed.

(MR. DEPUTY SPEAKER in the Chair)

†Sri P. V. AITHALA.—Mr. Deputy Speaker, Sir, I beg to oppose very strongly the amendments that have been proposed for the following reasons :—

In the first place, the Hon. Finance Minister has just now observed that there has been evasion of taxes and therefore it has been necessary for plugging the same. In Bangalore the Sales Tax Check-posts were installed about 6 years back and in Mangalore about 4 years ago. I am sorry that the Hon. Minister has not been impartial as has been often observed by his own party-men and Opposition members. These check-posts have not been installed at some places where crores of rupees could have been collected on account of political considerations. These check-posts have been installed at Bangalore at key places. In Mangalore also, all the roads have been plugged and no lorry or transport could enter without being noticed by the check-posts. But, in important centres like Gulbarga, Raichur, Belgaum and Hubli and Dharwar you have not installed these Sales Tax check-posts on account of political considerations. You want to help your own people there. I am reading the names of places where these check-posts have been introduced they are :

Mangalore	...	3
Bangalore	...	6
Davangere	...	1
Nippani	...	1
Siruguppa	...	1
Hospet	...	1

(SRI P. V. AICHALA)

Do you mean to say that Hubli-Dharwar Corporation is less important than Mangalore? Is it not due to political interference you are refraining from introducing the check posts in other places? Mr. Hanumantharayappa sent you the figures and the revenue has increased by 50 per cent a year. Do you mean to say that there are no evasions in Hubli-Dharwar Division, Belgaum and Gulbarga Divisions? Are you applying two standards to judge the traders of one State? Are you afraid that there would be political opposition to your Ministry? In fact we have been admiring our Hon. Finance Minister for his impartiality, ability and capacity in doing things, but on this account, I have my own doubts because they are afraid that there would be strong opposition from the influential traders if these check posts are introduced in other areas also, especially in areas like Hubli-Dharwar and that is why they have refrained from opening check posts. On the main road of Davangere they have introduced the check post; but is it on the main road only that these check posts are introduced in Mangalore and Bangalore? No, you have plugged the entire cities thoroughly and not even a cart could enter. In Adoni, I am told that there is such an intensity of trade which requires that the road to Adoni is checked by proper insulation of check posts immediately. There is no justification or necessity for these amendments, when the Finance Minister wants to exclude about 15 districts out of the purview of section 28A. The intention in bringing this amending Bill, as I could understand, is either the Hon. Minister wants to help some influential traders or he is afraid of them - one of these things must be there. He wants to help the traders and industrialists so that they may not worry about these check posts. The Hon. Minister seems to be worried about the strong opposition that might arise in the next elections.

You could call for statistics from the Commercial Tax Department. In fact the trade is shifting to the central places. In fact the business in Bangalore has decreased while the business in K. G. F. and Tumkur has increased. In the nearby places business has increased only on account of actual shifting of the trade. In Mangalore also the business has shifted to Pane-Mangalore, Udipi and Bantwala, etc. Therefore, if you want to introduce these check posts you introduce them in all the districts. If the revenue is to come, let it come from all the districts and not from one particular district.

Coming to the next and the most important point, so far, these check post inspectors had to issue a notice to the Driver saying that he had committed an offence and then ask him to appear before the Assistant Commercial Tax Officer. So there was an opportunity to the person affected to go and show proper records before the Assistant Commercial Tax Officer or the Deputy Commissioner and satisfy them of the *bona fides* of the records. But now in contravention of sections 2 and 3 they have empowered the Assistant Commercial Tax officer to

evy a penalty and if penalty is not paid, they have further empowered the officer to remove so much of goods as may be necessary to recover the penalty amount. The very sections which were struck down by the High Court have been re-introduced here. In the original sub-section there was the word 'confiscation'. But here in this amendment, it is stated that the goods equal to the amount of penalty amount is to be removed by the Tax Officer and the same could be auctioned. It also amounts to confiscation. The lorry might contain valuable goods like stainless steel, etc. When such serious powers to remove from the lorry cases containing stainless steel, gold or wrist watches, etc., and keep a portion of them in order to recover the penalty, are to be given to these officers, I would like to know from the Government, where is the safety for the traders? Instead of 10 steel plates the officer might remove 15 plates, then who is to attest this seizure of goods? There are already huge complaints saying that the number of appeals in the e cases have reduced throughout the State. The general complaint is compromises are being effected at the lower level itself and even the Heads of Departments are worried over this matter. The appeal cases either before the Sales Tax Appellate Tribunal or before the Deputy Commissioner have been reduced to 50 per cent. Mangalore used to be the first in so far as appeals were concerned. But now the number of appeals have been considerably reduced. The Government is going to give more and more powers to these low grade officers to seize goods from the lorry and then auction them without any outside witnesses being present. Therefore, I have suggested that before the goods are removed from the lorry the seizure of documents should be attested by two outsiders or non-official persons. Otherwise there is a danger of removing more quantity of goods than actually is required for recovering the penalty amount or making a compromise then and there at the lower level itself. In view of the present amendment, I think there would be more number of compromises and adjustments and very few cases might come up before higher authorities.

Further, Sir, you have not made any provisions for exempting the agricultural produces, though you say you give all fillip to agriculture. Even if the agricultural produce is to be taken to the market, the grower has to carry all the documents; otherwise he will be subject to the penalties that are contemplated here. I want to ask the Government, from where could he get the declarations? From where can the agriculturist get these 39 declarations? He would not get these declarations unless he gets himself registered under the Sales Tax Act. Do you want a citizen who has nothing to do with the Sales Tax Act, i. e., a man like the agriculturist, to be bound by the registration of his name under the Sales Tax Act to get the 39 declarations you have mentioned in the amendment Bill?

4-00 P.M.

In some paper I have read that a check post Officer who was practising this compromise business was taught a lesson by the dealers.

(SRI P. V. AITHALA)

In fact in a delivery van, two dead bodies were being brought for pots mortem. These two dead bodies were covered with white cloth. At about 10 O'clock this Sales Officer stopped this vehicle. He wanted something from them. The people in the lorry told him that he could keep one of them for further enquiry. This Officer opened the white cloth that was wrapped over the dead body and was surprised to see the dead body. To this extent, the compromise is going on. It is not at all advisable to entrust this officer with such vast powers. I have had discussion with an industrial magnate of Mangalore who has suffered a lot on account of these check posts. If you introduce it in all the Districts, we are prepared to suffer. But the fact is different. You have introduced it in Mangalore and in some other three Districts.

Apart from these check posts, there are other several check posts—like Food Checkpost, Forest check posts, etc. We can compare the movement of transport here with European countries. I am told that the average speed of goods vehicle in India is between 9 to 10 miles whereas in European Countries, it is 20 to 30 miles. Day after day you are introducing so many check posts, in addition to the check posts of the Food Department. How many check posts you are introducing. Some of the provisions of the Act have been struck down by the High Court holding that those provisions are infringing the fundamental rights guaranteed under Article 19 of the Constitution. But before confiscating the property, the person concerned should be given notice. In some cases the person in charge of the vehicle will be held responsible. How that person in charge could be held responsible, I cannot understand. He gets his charges for transporting. The person affected is the owner of the goods. But you don't want to give notice to him. Why should the Driver go and file an appeal? The provisions in the Bill do not contain reasonable grounds. The finding of the High Court is not reflected in the Act. Even the Madras High Court has struck down. Therefore any provision made should be reasonable. Of course I agree if the tax is evaded, even then the restrictions imposed should be reasonable. You can stop the vehicle and inspect it. But the procedure prescribed for confiscation of goods without enquiry and without stating the circumstances under which they could be confiscated is unreasonable and they are very serious restrictions. The observations of the High Court have not been taken into consideration at all. You are depending upon the documents only. If the owner of a transport has got some documents, you do not depend upon them. If he does not have the full documents, you prescribe or lay down points for enquiry. Even in cases where the signatures were made in bold pen, penalties are levied. For non-mention of registration number, you are levying penalty. If anything is done by the owner by oversight, you levy penalty. The circumstances that led for levying penalty should be specified. This has not been done. If you observe all these formalities,

you cannot levy penalty at all. You want to punish those who have done some thing by oversight or by negligence. It is surprising to know the owner will be punished for having put his signature in bold pen. Supposing I come to the Assembly forgetting to bring the necessary copies of the Bills supplied to me and all that. Does it mean that I should be punished? Can I not manage by taking extra copies from the office or even without them? You have not laid down the points for enquiry. There is some scope for enquiry if the dealers evade tax. The High Court has pointed out the same thing and they have not followed it. Sir, the amendments that have been brought forward are not at all just and proper, nor they are helpful; they are only restricting the fundamental rights. In Mangalore, the check posts are called 'mamool Katte'.

Therefore, luckily you have not introduced in your own District otherwise you would have had some experience in North Kanara also. Nor the Chief Minister has any experience of this because it is not introduced in his District. Sir, I do say there are efficient officers who can strictly enforce rules. I know in the Commercial Tax Department there are officers of integrity and ability. But they are not placed in proper position. If you send an efficient officer for an administrative post, what will be the result? They are not placed in charge of executive work. There are efficient officers who can administer these check-posts if they are introduced throughout the State. I am sure the State will not fail to get an additional revenue of 10 crores, if these checkpoints are introduced in important business centres in Bombay Karnatak and Hyderabad Karnatak. Therefore, the very intention of the amendments suggested in this amending Bill are not good, as they are not being introduced throughout the State; as you want to discriminate between town and town irrespective of the intensity of business, I oppose this Bill. There are towns in which the business activity is more intense than in Mangalore or some other place in which these check posts are already introduced.

I have sent some amendments also to this Bill. I will speak on them later.

Therefore, while opposing this Bill, I request the Hon. Minister for Finance that he should think over the matter again and see that the proposed amendments in the amending Bill are not pressed.

ಶ್ರೀ ಎಂ. ನಾಗಪ್ಪ.—ಸ್ವಾಮಿ, ಅಧ್ಯಕ್ಷರೇ ಈ ತಿದ್ದುಪಡಿ ವಸೂಲಿಯನ್ನು ನಾನು ಎಲೋದಿಸುತ್ತೇನೆ. ಹಿಂದಿನ ಎರಡನೆಯ ಸೆಕ್ಷನ್ನಿನ 4 ಮತ್ತು 5 ನೆಯ ಸಬ್-ಸೆಕ್ಷನ್ಗಳು ಸರಿಯಾಗಿರಲಿಲ್ಲ, ಆದರಲ್ಲ ಶಿಕ್ಷೆಗೆ ಗುರಿಯಾದವು ಪ್ರಾಪರ್ಷ್ ಮಾತ್ರ ಅಟ್ಯಾಚ್ ಮಾಡಿಸುವುದಕ್ಕೆ ಅವಕಾಶವಿತ್ತು, ಅಪೀಲಿಗೆ ಅವಕಾಶವಿರಲಿಲ್ಲ, ಫಂಡಮೆಂಟಲ್ ರೈಟ್ಸ್ಗೆ ಅವಕಾಶವಿಲ್ಲ ಎಂದು ಕೆಲವು ಪ್ರಾವಿಷನ್ಗಳು ಅಲ್ಪಾವೃತ್ತಿ ಎಂದು ಹೈಕೋರ್ಟ್ ಡಿಕ್ಲೇರ್ ಮಾಡಿರುವುದರಿಂದ ತಿದ್ದುಪಡಿ ಮಾಡಿದ್ದಾರೆ. ಆದರೆ ಈಗ ತಂದಿರುವ ತಿದ್ದುಪಡಿ ಕೂಡ ಮುಂದೆ ಹೈಕೋರ್ಟ್ ನಲ್ಲಿ ಫಾರಂಜ್ ಮಾಡಿದರೆ ಅದು ಉಳಿಯುತ್ತದೆಯೇ, ಅದು ಸೂಕ್ತವಾಗಿದೆಯೇ ಎಂಬುದನ್ನು ನೋಡಬೇಕು. ತಿದ್ದುಪಡಿ ಮಾಡಿ ರಿಡಂಪೆಂಟ್ ಕ್ಲಾಸಸ್ ಅಥವಾ ರಿಡಕ್ಯುಲಸ್ ಕ್ಲಾಸಸ್ ತಂದಿದ್ದಾರೆ. ಎಕ್ಸ್‌ಪೆನ್ಸೆಸ್‌ನಲ್ಲಿ ಚೆಕ್‌ಪೋಸ್ಟ್ ಅಥವಾ ಬ್ಯಾರಿಯರ್ ಫಾರ್ಜಿನಲ್ಲಿ ಇರುವ ಅಧಿಕಾರಿ ಅಸಿಸ್ಟೆಂಟ್ ಕಮಿಷನರರ್ ಚಾಕ್ಸ್ ಅಸಿಸ್ಟೆಂಟ್ ರಾಂಕಿನವರಿಗಿಂತ ಕಡಿಮೆ ದರ್ಜೆಯವರಿದಾರದು, ಕಮಿಷನರರ್ ಚಾಕ್ಸ್ ಅಸಿಸ್ಟೆಂಟ್ ಕಮಿಷನರವರಿಗಿಂತ ಹೆಚ್ಚಿನ ರಾಂಕಿನವರಿರ

(ಶ್ರೀ ಎಂ. ನಾಗಪ್ಪ)

ಬಾರದು ಎಂದು ತಿಳಿಸಿದ್ದಾರೆ. ಇದರ ಅರ್ಥ ತಿಳಿಯಲಿಲ್ಲ. ಈಗ ಈ ಎಕ್ಸ್‌ಪ್ಲನೇಷನ್ ಹಾಕಿದರೆ ಅಟೊಮ್ಯಾಟಿಕ್‌ಗಾಗಿ ಮುಂದಿರುವ ಪ್ರಾವಿಷನ್‌ನ್ನು ಅಮೆಂಡ್ ಮಾಡಿದಂತಾಗುತ್ತದೆ. ಈಗಿರುವಂತೆ ಯಾವ ಅಧಿಕಾರಿಯನ್ನಾದರೂ ನೇಮಕ ಮಾಡಬಹುದು. ಆದರೆ ಎಕ್ಸ್‌ಪ್ಲನೇಷನ್‌ನಲ್ಲಿ ಬೇರೆ ರೀತಿ ಇದೆ. ಮುಂದೆ ಸರಕಾರ ಸರಿಯೆಂದು ತೋರುವ ಯಾವ ಅಫೀಸರಾದರೂ ಆಗಬಹುದು ಎಂದು ತಿಳಿಸಲಾಗಿದೆ. ಈ ರೀತಿ ಮಾಡುವುದು ಸರಿಯಲ್ಲ. ಇದು ರಿಡೆಂಡೆಂಟ್ ಎಂದು ತಿಳಿಯುತ್ತೇನೆ, ಎಕ್ಸ್‌ಪ್ಲನೇಷನ್ ಅನಾವಶ್ಯಕವಾಗಿ ತಂದಿದ್ದಾರೆಯೆಂದು ತಿಳಿಯುತ್ತೇನೆ. ಹೈಕೋರ್ಟ್‌ನ ಜಡ್ಜ್ ಮೆಂಟಿಗೂ ಸರಕಾರ ನೇಮಕ ಮಾಡುವ ಅಧಿಕಾರಿಗೂ ಯಾವ ರೀತಿಯ ಹೊಂದಾಣಿಕೆಯೂ ಇಲ್ಲ.

ಎರಡನೆಯದಾಗಿ ಸೆಕ್ಷನ್ 29 ಮತ್ತು ರೂಲ್ 61—ಪೆನಾಲ್ಟಿ ವಿಚಾರ—ಈ ಎರಡನ್ನೂ ಗಮನಿಸಬೇಕು. ಸಬ್‌ಸೆಕ್ಷನ್ 2 (ಡಿ) ಪ್ರಕಾರ ಯಾವ ಸೆಕ್ಷನ್ಸ್ ಕಾಂಟ್ರೋಲ್ ಮಾಡಿದರೆ ಫೈನ್ ಅಥವಾ ಪರಿಷ್ಕರಣೆ ಏನು ಕೊಡಬೇಕೆಂಬುದನ್ನು ಹೇಳಿದೆ. ಇದೂ ಅಲ್ಲದೆ ರೂಲ್ 61 ರ ಪ್ರಕಾರ ಪೆನಾಲ್ಟಿ ಅಂತ ಹೇಳಿ ಒಂದು ರೂಲ್ ಸಹ ಮಾಡಿದ್ದೀರಿ. 28 ಎ) ಸಹಿತ ರೂಲ್ 61ರಲ್ಲಿ ಬೈವೇಲೆಫ್ ಅಮೆಂಡ್‌ಮೆಂಟ್ ತಂದಿದ್ದೀರಿ ಅಂತ ಕೇಳಿದ್ದೇನೆ. ಹಾಗಿದ್ದರೆ ಸಬ್‌ಸೆಕ್ಷನ್ 5 ರಿಡೆಂಡೆಂಟ್ ಆಗುತ್ತದೆ ಅಂತ ಹೇಳಿ ನೃಪಪಡಿಸುತ್ತೇನೆ.

ಇದೇ ಮಾನ್ಯ ಸಭೆಯಲ್ಲಿ ಇದೇ ತರಹದ ಎರಡು ಅಮೆಂಡ್‌ಮೆಂಟುಗಳನ್ನು ತಂದಿದ್ದೀರಿ ಇದು ಮೂರನೆಯ ಅಮೆಂಡ್‌ಮೆಂಟು, ಜನತೆಗೆ ಈ ತಿದ್ದುಪಡಿಗಳ ತಿಳಿವಳಿಕೆಯಾಗುತ್ತದೆಯೋ ಇಲ್ಲವೋ ಅಫೀಸರುಗಳಿಗೂ ಸಹಿತ ಈ ವಿಷಯ ಗೊತ್ತಾಗಲಿಕ್ಕಿಲ್ಲ. ಈ ತರಹ ಒಂದೊಂದು ತಿದ್ದುಪಡಿಯನ್ನು ಒಂದೊಂದು ಸಭೆಯಲ್ಲಿ ತಂದು ಮೂರು ತಿದ್ದುಪಡಿಗಳನ್ನು ಮಾಡಿದರೆ ಜನತೆ ಯಾವ ದೃಷ್ಟಿಯಿಂದ ಇದರಲ್ಲಿರತಕ್ಕ ನ್ಯೂನತೆಯನ್ನು ಸರಿಪಡಿಸಿಕೊಳ್ಳಬೇಕು ಅನ್ನುವುದು ಗೊತ್ತಾಗುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಈ ಸೇಲ್ಸ್ ಟ್ಯಾಕ್ಸ್ ಆಕ್ಟ್‌ನ್ನು ಗುಜರಾತ್‌ನಲ್ಲಿ ಮಾಡಿದಂತೆ ರೀಮಾಡರ್ ಮಾಡಿ ಒಂದು ಹೊಸ ಕಾನೂನನ್ನು ತಂದರೆ ಒಳ್ಳೆಯದಾಗುತ್ತದೆ. ಹಾಗಲ್ಲದೆ ಈ ರೀತಿ ತಿದ್ದುಪಡಿಗಳನ್ನು ಮಾಡುತ್ತಾ ಹೋಗುವುದರಿಂದ ಮಾನ್ಯ ಸಭೆಯ ಸಮಯ, ಸರ್ಕಾರಕ್ಕೆ ಆಗತಕ್ಕ ತೊಂದರೆ ಎಲ್ಲ ಬಹಳ ಜಾಸ್ತಿಯಾಗುತ್ತದೆ, ಅದನ್ನು ದೂರ ಮಾಡುವುದಕ್ಕೆ ಒಂದು ರೀಮಾಡರ್ ಆದ ಆಕ್ಟ್‌ನ್ನು ತಂದರೆ ಒಳ್ಳೆಯದೆಂದು ಹೇಳುತ್ತೇನೆ.

ಇವೇಷನ್ ಆಫ್ ಟ್ಯಾಕ್ಸ್ ಸೆಕ್ಷನ್ 29 ಸಬ್ ಸೆಕ್ಷನ್ 5ರಲ್ಲಿ ತಂದಿರುವುದು ಬಹಳ ಅನ್ಯಾಯ. ಇದು ಡಬ್ಲ್ಯುಲ್ ಪರಿಷ್ಕರಣೆ ಆಗುತ್ತದೆ ಎಂದು ಹೇಳುತ್ತೇನೆ. ರಾಜ್ಯಾಂಗದ ಅರ್ಚಿಕಲ್ 20ನ್ನು ನೋಡಬೇಕು ಅದರ ಪ್ರಕಾರ ಎರಡು ಸಲ ಪರಿಷ್ಕರಣೆ ಕೊಡುವುದಕ್ಕೆ ಅವಕಾಶ ಇಲ್ಲ. ಡಿಕ್ಲೇರೇಷನ್ ಕೊಡದಿದ್ದರೆ ಶಿಕ್ಷೆಗೆ ಗುರಿಯಾಗಬೇಕಾಗುತ್ತದೆ. ಇಲ್ಲೂ ಕೂಡ ಒಂದು ಪ್ರೊವಿಷನ್ ಮಾಡಿಕೊಂಡಿದ್ದೀರಿ, ಇದು ಡಬ್ಲ್ಯುಲ್ ಪರಿಷ್ಕರಣೆ ಆಗುತ್ತದೆ; ಈ ತರಹ ಆಗದಂತೆ ನೋಡಿ ಕೊಳ್ಳಬೇಕೆಂದು ಹೇಳುತ್ತೇನೆ.

ಚೆಕ್‌ಪೋಸ್ಟ್‌ನಿಂದ ಆಗತಕ್ಕ ಅನ್ಯಾಯ ಎಷ್ಟು ಅಂತ ಹೇಳಬೇಕಾಗಿಲ್ಲ ಒಬ್ಬ ಮಾನ್ಯ ಸದಸ್ಯರು ಹೇಳಿದ್ದಾರೆ. ಟ್ರಾನ್ಸ್‌ಪೋರ್ಟ್‌ಮಾಡತಕ್ಕ ವ್ಯಾಪಾರಸ್ಥರಿಗೆ ಇದರಿಂದ ಹೆಚ್ಚು ತೊಂದರೆ ಯಾಗುತ್ತದೆ, ಹ್ಯಾರಾಸ್ಮೆಂಟ್ ಜಾಸ್ತಿಯಾಗುತ್ತದೆ, ಇದನ್ನು ಸರ್ಕಾರದವರು ಗಮನಿಸಿ ಚೆಕ್ ಪೋಸ್ಟ್‌ನಿನ್ನಂತ್ರೆ ತೆಗೆದರೆ ಬಹಳ ಉತ್ತಮ, ಇನ್ನೂ ಉತ್ತಮವಾದ ಪ್ರೊವಿಷನ್ ಇದ್ದರೆ ತಿದ್ದು ಪಡಿಸಬೇಕೆಂದು ಸೇರಿಸಬೇಕೆಂಬ ಮಾತನ್ನು ಹೇಳಿ ನನ್ನ ಮಾತನ್ನು ಮುಗಿಸುತ್ತೇನೆ.

†Sri C. K. RAJIAH SHETTY (Chicknaikanahalli).—Mr. Deputy Speaker, at the outset, I oppose this amendment Bill. It has become the common feature with this Government to bring amendments to the Act whenever the High Court gives a decision against the interests of the Government. I am sorry to say that every day the taxation policy of the Government has become harassment to the merchants. I do not know how our Hon. Finance Minister, being a learned Lawyer, is relishing all these things. I do not know how many officers are there for these merchants. A merchant who deals in food, has to go to the officer dealing with food license; then he has to go to the Income-tax and Sales Tax

officers over and above all these pinpricks, it looks as through Government wants to close entirely the motor vehicular traffic and encourage the railway goods traffic. Within one hundred miles, from Arsikere to Bangalore, there will be half-a dozen checking for a lorry. 25 per cent revenue of a Department leaks because there is corruption among the officers and because there is evasion and because there is confusion in the Act itself. Let the Government look into the Gujarat Act. How simple it is. The number of schedules is less. The rates on commodities are common. There is no turnover tax. Tax is levied at the stage of production. Here we are having turnover tax. What is happening here, is the regular lorry owners have secret understanding at check-posts. When the lorry comes to a check-post, the officer-in-charge will issue a chit to the lorry driver and if there is no further checking subsequently by any other man, the lorry man returns the chit, pays the regular mamool and goes scot-free. I understand that the collection of mamool at the Bangalore Check Post is Rs. 150 per day. Corruption cannot be rooted out by posting officers drawing a higher scale of pay. That will not at all improve matters because if an Inspector is satisfied with a mamool of Rs.50, if the Government post in his place an Assistant Commercial Tax Officer, he will be satisfied with Rs. 100. That is how things are going on. There are Officers even in the cadre of Deputy Commissioners who are awfully corrupt. They themselves help the merchants to evade taxes; they teach them as to what reasons should be given and how statements should be prepared to evade taxes. The best thing is to simplify the Act and not to harass the people. After all, what is it that the Government want? They want money. If they want Rs. 45 crores let them fix that target and collect it easily. Now supposing if single-tax is imposed on cloth and collected at the production stage, the revenue of the Government will increase. Such things can be brought under single point tax at the production stage. Every amendment brought in, leads to more and more evasion and confusion. The Gujarat Act is simple and if our Government follows that, it will avoid corruption, evasion and confusion to a great extent. If a dealer deals in hundred varieties of goods, he will have to maintain account in respect of every article and you can imagine what an amount of worry it involves. A poor businessman whose turn over may not be Rs. 100 a day, how can he maintain account? It is a regular harassment that is going on now and it has resulted in a lot of evasion. Take the case of turn over tax. If food grains were to reach a village, the tax starts from the mills, the wholesale dealer, the retail dealer and the villager. By the time the goods reach the village nearly six times the tax will have been paid. Ganthiji fought against the imposition of tax on salt because salt is considered to be an essential commodity. But now you are taxing on every article, including food articles. Therefore I request the Government to examine this in detail and bring in a comprehensive and simple Bill which will apply both to merchants as well as people who are benefited and eliminate corruption, evasion and confusion in the collection of tax.

Sri RAMAKRISHNA HEGDE.—Sir, the question is whether it is necessary to have checkposts or not. About this, the most vociferous member Sri P. V. Aithal has no objection. He says that checkposts are necessary. But his objection is why do we have checkposts only in Bangalore or Mangalore, is it not discriminatory on our part that we have not started checkposts in Gulbarga, Raichur, Karwar, Sirsi? These checkposts were originally started a few years ago mainly on an experimental basis. Even in Mangalore we started late. First we started in Bangalore because Bangalore gives nearly 40 to 50 per cent of total sales tax. Therefore it is necessary to concentrate our efforts in areas where it would be remunerative. The second biggest centre is Mangalore. Mangalore gives us only next to Bangalore, the highest sales tax revenue. We have started introducing checkposts in Davangere, Nippani and gradually in all the other important trade centres the Government proposes to have checkposts. But because Mangalore has a port, many industries are coming up there and it is one of the biggest trade centres. Therefore we started from Mangalore after Bangalore. So, I can assure the hon. Member that if the Government has not started checkposts in certain other areas it is not because the Finance Minister is afraid of political repercussions or because he is partial towards one community or section of community. If it is agreed that checkposts are necessary with a view to plug leakages in tax collection, then we must have such a system where the officers in charge of checkposts can be effective. It was with that objective that we had originally amended the Sales Tax Act. But unfortunately the High Court while upholding a portion of it, has held that a certain other portion of the same section is not valid. This is with a view to make the whole section really operative and effective in its operation.

The second point that Sri Aithal argued that it might result in a good deal of harassment even to honest dealers. He mentioned the case of an agriculturist bringing his produce into the corporation or city area. He asked that if his goods are also seized, what is the protection he would get? It is known to everybody that these laws, regulations and various restrictions are really meant for those who are not honest in their dealings. If any trader or merchant scrupulously follows the rules and regulations and honestly performs his trade, then I can assure the hon. member that he will not be harassed by anybody. But it is true he has to undergo certain amount of difficulties on account of these procedures and that is inevitable. For one or half a per cent of criminally minded people, we have to have the whole Indian Penal Code and Criminal Procedure Code. Just because we have the Indian Penal Code, it does not mean that everybody is criminal. There are dishonest traders who do not keep their accounts properly, whatever might be their number, however small their number might be, it is necessary to exercise control over such merchants, and therefore we have this power with us. It is rather curious to hear from the hon. member that for the act of negligence or forgetfulness on the part of trader, why should he be

penalised? I am sure that no trader is ever forgetful. No trader is ever negligent in his business. He would never commit any mistake in his documents. He reads twice, thrice or four times over. If there is any mistake, we can safely presume that it is intentional and wilful. Therefore, honest merchants will not be penalised or harassed and I can assure the hon. Member that it is only those who make an attempt to defeat the provisions of law who will have to be dealt with.

The other hon. Member Sri Nagappa referred to those provisions and said that they are unnecessary restrictions on trade. That is not correct. It is true that on account of certain restrictions the transportation of goods may be rather slow because there are octroi nakas, food checkposts, sales taxes checkposts and so on but for sometime to come I am afraid we cannot dispense with these checkposts. When we quote the example of certain western countries in regard to vast movement of goods, we should also not forget at the same time the degree of honesty and integrity on the part of the traders there. These two things go together. The greater the dishonesty, the greater the restrictions and more rigorous the provisions of law.

In regard to the point raised by the hon. Member Sri Rajaiah Setty, I do concede that there has been some harassment by the department and whatever is humanly possible is being done to minimise it. Unfortunately, the general standard of morality in society is low and after all we have to draw people from the society. We try to pick the best under the circumstances. But even if they become corrupt it will be very difficult because unless corruption is proved we cannot punish those officers. Therefore, our intention now is to post fairly senior officers in charge of these checkposts. The other day I had a discussion with the Commissioner of Commercial Sales-Tax in this behalf and personally I don't mind extra expenditure. Instead of having persons of lower grade, we can even have Assistant Commissioners of Commercial Taxes turn by turn particularly during the night and pay them some extra allowance so that the real purpose for which we have created these checkposts can be served.

With these words, I think I have tried to allay the fears and apprehensions of the hon. Members and I am sure they would lend their support.

Mr. DEPUTY SPEAKER.—The question is :

“That the Mysore Sales Tax (Amendment) Bill, 1969 be circulated for eliciting public opinion by 31st October 1969.”

The motion was negatived.

Mr. DEPUTY SPEAKER.—The question is :

“That the Mysore Sales Tax (Amendment) Bill, 1969 be taken into consideration.”

The motion was adopted.

CLAUSE 2

Mr. DEPUTY SPEAKER.—The hon. Member Sri Nagappa will move his amendments.

Sri M. NAGAPPA.—Sir, I beg to move :

“ That at page 2, for the proposed Explanation to sub-section 28A, the following explanation shall be substituted :

‘ Explanation : For purposes of such sections (2) & (3) the officer in charge of checkpost or barrier shall be Assistant Commercial Tax Officer.’ ”

“ That at page 2, in sub-section (4) of the proposed Section 28A, for the words ‘ not below the rank.....Assistant Commissioner of Commercial Taxes ’ the words ‘ empowered as aforesaid ’ shall be substituted. ”

Or

“ For the proposed Sub-section (4) of Section 28A the following shall be substituted.

‘ (4) The officer in charge of a checkpost or barrier, or any other officer as aforesaid subject to sub-section (5) may levy a penalty :—

(a) for any contravention of or non-compliance with the provisions of sub-sections (2) and (3) and for which sufficient cause is not furnished or

(b) (i) where the declaration made under sub-section (2) is false in respect of materials furnished therein; or (ii) where the particulars furnished in the records do not tally with the goods actually being transported or are found to be not relating to such goods’.”

“ That at page 3, the proposed proviso to section 28A shall be numbered as a sub-section.”

“ That at page 3 in the proposed sub-section (6) of the proposed section 28A for the words ‘ ten days ’ wherever they occur, the words ‘ fifteen days ’ shall be substituted.”

“ That at page 4, the proposed sub-section (7) of section 28A shall be omitted

Or

item (ii) of the proposed sub-section (7) of section 28A shall be deleted.”

Sri P. V. AITHALA.—Sir, I beg to move :

“ That at page 3, for the proviso to proposed sub-section 4 of section 28A the following proviso shall be substituted :—

‘ Provided that before levying any penalty under this sub-section, the officer shall give the person affected an opportunity

of being heard and make an enquiry as to the bonafides or otherwise of the transport. No Penalty shall be levied, if the person affected proves that there was no likelihood for evasion of tax'."

"That at page 3, in the proposed sub-section 5 (b) of section 28A after the words 'in the case of any other goods', the following words shall be inserted :

'excepting the goods not liable to tax under this Act'."

"That at page 3 in the proposed sub-section 5 (b) of section 28A the word 'double' shall be omitted."

"That at page 4, after proviso to the proposed sub-section (6) of section 28A the following proviso shall be added :

'Provided further that while taking possession of goods the officer shall prepare a yadath attested at least by two non-official witnesses'."

Mr. DEPUTY SPEAKER.—All the amendments moved by Sri Nagappa and Sri P. V. Aithala are before the House.

Sri M. NAGAPPA.—I have already said what I wanted to say on my amendments.

† Sri P. V. AITHAL.—Sir, in our Act 60 per cent of the goods are covered by schedules and subject to single point tax. You don't want to levy any penalty on them. About another 10 per cent of the goods are exempted from tax and you do not want to levy any penalty on them. You only want to levy a penalty in respect of multi-point tax goods. Is it not unreasonable discrimination between goods?

There is no intention on the part of Government to levy any penalty by this amendment on goods other than those subject to multi-point tax. This is an unreasonable discrimination which I want the Hon. Minister to explain. Most of the luxury goods are covered by Schedule 2, like radios and toilet articles which are subject to single point tax. If a dealer transports these goods without proper document and if it is proved that tax has been paid on them, then no penalty could be levied. So if you are satisfied that tax has been paid, you do not want to levy any penalty, but in the case of goods subject to multi-point tax you want to levy a penalty of double the tax. For instance, rice, wheat and other foodgrains are not subject to single point tax but are subject to multi-point tax and on these goods which are meant for consumption by the poor classes you want to levy this penalty of double the tax. I submit that this is unreasonable discrimination and a partiality has been shown to those who use luxury articles, namely the richer classes by not levying any penalty in the case of those goods. So my amendment suggests that here also in the case of multi-point taxable goods the penalty may be limited to the actual tax payable on it.

Then the Hon. Minister said that they have introduced checkposts at Bangalore and Mangalore on experimental basis. If they are esta

(SRI P. V. AITHALA)

blished at these places on an experimental basis, then why should they not be established on equally important places like Hubli, Dharwar, Karwar, Gulbarga, etc. It is more than 4 years since these checkposts are established at Bangalore and Mangalore on experimental basis. I learn that the checkpost at Mangalore is yielding more than Rs. 3 crores to Government. If that is so, a checkpost at Hubli would yield at least Rs. 2 crores. Do you mean to say that the people in these places where the present Ministry gets the largest support are not at all evading the tax? For how many years are these experimental checkposts to be continued at Bangalore and Mangalore?

SRI RAMAKRISHNA HEGDE.—We have established checkposts at Davangere and Nipani.

SRI P. V. AITHAL.—But you have not plugged the entire route. You have established these checkposts only on the main road, but there are 5 or 6 roads to Davangere and Nipani all of which you have not plugged. Therefore, there is no justification in continuing the checkposts only at Mangalore and Bangalore.

SRI RAMAKRISHNA HEGDE.—I want to submit that there is no partiality to any particular place. Actually these checkposts were started on an experimental basis. Later on we found that these checkposts are yielding certain additional revenue and so we have continued them. Actually proposals are pending in the Department to start more checkposts in other centres also including Hubli. Hubli is not a port like Mangalore. Mangalore is an important place.

The other suggestion of the hon. member that the penalty may be restricted to the tax amount in respect of goods liable to multi point tax is not acceptable to Government. The reason is quite obvious and the hon. Member knows it.

MR. DEPUTY SPEAKER.—The question is :

“That at page 2, for the proposed Explanation to sub-section 28A, the following explanation shall be substituted :

‘Explanation : For purposes of such sections (2) and (3) the officer in charge of checkpost or barrier shall be Assistant Commercial Tax Officer’.”

“That at page 2, in sub-section (4) of the proposed Section 28A, for the words ‘not below the rank..... Assistant Commissioner of Commercial Taxes’ the words ‘empowered as aforesaid’ shall be substituted.”

OR

“For the proposed Sub-section (4) of Section 28A the following shall be substituted.

' (4) The officer in charge of a checkpost or barrier, or any other officer as aforesaid subject to sub-section (5) may levy a penalty :—

(a) for any contravention of or non-compliance with the provisions of sub-sections (2) and (3) and for which sufficient cause is not furnished or

(b) (i) where the declaration made under sub-section (2) is false in respect of materials furnished therein ; or (ii) where the particulars furnished in the records do not tally with the goods actually being transported or are found to be not relating to such goods.'

" That at page 3, for the proviso to proposed sub-section 4 of section 28A the following proviso shall be substituted :—

' Provided that before levying any penalty under this sub-section, the officer shall give the person affected an opportunity of being heard and make an enquiry as to the *bona fides* or otherwise of the transport. No Penalty shall be levied, if the person affected proves that there was no likelihood for evasion of tax.' "

" That at page 3, in the proposed sub-section 5 (b) of Section 28A after the words ' in the case of any other goods', the following words shall be inserted :—

' excepting the goods not liable to tax under this Act'. "

" 6. That at page 3 in the proposed Sub-section 5 (b) of section 28A the word ' double ' shall be omitted.

" 7. That at page 3, the proposed proviso to section 28A shall be numbered as a Sub-section.

" 8. That at page 3 in the proposed Sub-section (6) of the proposed section 28A for the word ' ten days ' wherever they occur, the words " fifteen days " shall be substituted.

" 9. That at page 4 after proviso to the proposed sub-section (6) of section 28A the following proviso shall be added :

' Provided further that while taking possession of goods the officer shall prepare a Yadasth attested at least by two non-official witnesses.'

" 10. That at page 4, the proposed sub-section (7) of section 28A shall be omitted.

OR

item (ii) of the proposed sub-section (7) of section 28A shall be deleted.—

The amendments were negatived

Mr. DEPUTY SPEAKER.—The question is :

“ That clause 2 do stand part of the Bill ”.

The motion was adopted.

Clause 2 was added to the Bill.

CLAUSE 3

Mr. DEPUTY SPEAKER.—There is one amendment to Clause 3, but the Hon. Member Sri T. R. Shamanna is not here. I will put it to the House.

The question is :

“ That clause 3 do stand part of the Bill. ”

The motion was adopted.

Clause 3 was added to the Bill.

CLAUSE 1, ETC.

Sri RAMAKRISHNA HEGDE.—I beg to move :

“ That in clause 1 for the word ‘ (Amendment) ’ the words ‘ (Second Amendment) ’ shall be substituted ”.

Mr. DEPUTY SPEAKER.—The question is :

“ That in clause 1 for the word ‘ (Amendment) ’ the words ‘ (Second Amendment) ’ shall be substituted. ”

The amendment was adopted.

[Mr. SPEAKER in the Chair]

Mr. SPEAKER.—The question is :

“ That clause 1, as amended, do stand part of the Bill. ”

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Mr. SPEAKER.—The question is :

“ That the long title and the Enacting formula do stand part of the Bill. ”

The motion was adopted.

The long title and the Enacting formula were added to the Bill.

Motion to pass

Sri RAMAKRISHNA HEGDE.—I move :

“ That the Mysore Sales Tax (Amendment) Bill, 1969, as amended, be passed. ”